

# **Salient Features of the Indian Evidence Act, 1872**

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## Topics Covered

- Background
- Application of IEA, 1872
- Nature of the Act
- Legal Perspective
- Division of IEA
- References

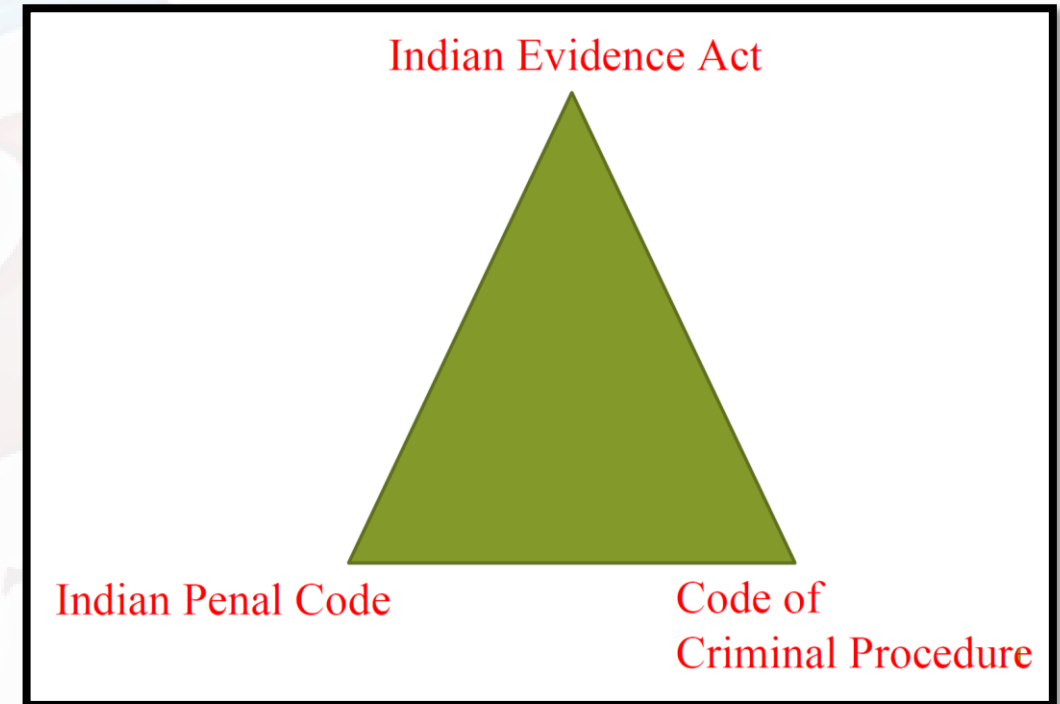
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## Background

- Indian Evidence Act is Adjective Law because it reflects qualities of IPC and CrPC.
- It is Drafted by Sir James Fitz James Stephen on 1<sup>st</sup> September, 1872
- It can be enforced with retrospective effect.

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- It is 'Lex Fori'. Lex Fori means the law of place where the question arises.
- It is derived from the Latin word 'Evidere' means to show or discover anything.
- It is first drafted in 1868 by Sir Henry Summer.
- It is not exhaustive law as it includes all the three basic criminal statutes (IPC, CrPC and Evidence).



## Application of IEA, 1872

Indian Evidence Act applies to all judicial proceedings in or before any Court, including Court martial, other than Courts Discipline Act or the Indian Navy (Discipline) Act, 1934 or the Air Force Act but not to affidavits presented to any Court -martial convened under the Army Act, the Naval or officer, nor to proceedings before an arbitrator.

## **Applicability**

- (i) Judicial proceedings in or before any Court
- (ii) Judicial proceedings in or before any Court including Courts-martial

## **Non applicability**

- (i) Administrative Proceeding
- (ii) Tribunal
- (iii) Courts-martial convened under the Army Act, the Naval Act.

## Non applicability

- (i) Administrative Proceeding
- (ii) Tribunal
- (iii) Courts-martial convened under the Army Act, the Naval Discipline Act or the Indian Navy (Discipline) Act, 1934 or the Air Force Act.
- (iv) Affidavits.

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## Non applicability

- (v) Proceedings before an arbitrator
- (vi) Departmental Proceedings
- (vii) Disciplinary Proceedings
- (viii) Air force/ Army Proceedings

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## Nature of the Act

**Although Indian Evidence Act is an Adjective law but it also has some Substantive provisions as follows:**

1. Section 4 (May presume, Shall presume, Conclusive proof)
2. Section 40 (Previous judgments relevant to bar a second suit or trial)
3. Section 102 (On whom burden of proof lies, Onus)
4. Section 115 (Estoppel)

## Legal Perspective

1. Originally, Indian Evidence Act contained 167 Sections, 11 Chapters and one Schedule. But in 1938 Schedule was repealed.
2. Now, Indian Evidence Act contains 167 Sections, 11 Chapters.
3. Law of Evidence establishes a working structure for the court from the grass root level.
4. It filters out the truth and serving justice to the people.
5. Purpose of the Act is to Consolidate, Define and Amend the law of Evidence.

There are three main principles which underlie the law of evidence:-

- (i) Evidence must be confined to the fact in issue.
- (ii) Hearsay evidence must not be admitted.
- (iii) The best evidence must be given in all cases.

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## Division of IEA

- **Relevancy of Facts**

Section(s) 5 to 55 of the Indian Evidence Act.

- **Classification of proof**

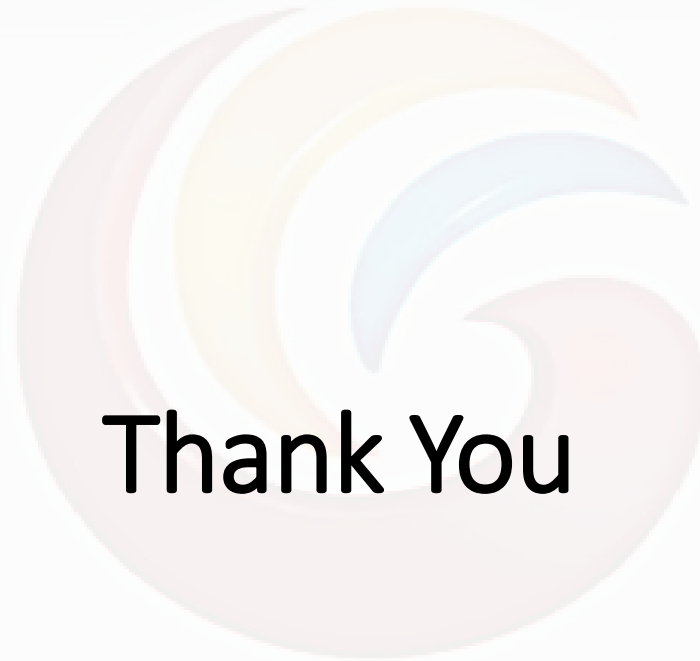
Section(s) 56 to 100 of the Indian Evidence Act.

- **Production and effect of Evidence**

Section(s) 101 to 167 of the Indian Evidence Act.

## References

- 1. Vepa P. Sarathi, Law of Evidence (6th ed., 2019)
- 2. M. Monir, Law of Evidence (10th ed., 2019)
- 3. Batuk Lal, The Law of Evidence (21st edition, 2019)
- 4. Avtar Singh, Principle of the law of Evidence (21st edition, 2019)



**Thank You**

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